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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8 CHERYL CASON, No. C-10-0792 EMC
9 Plaintiff,
10 v.
11 FEDERATED LIFE INSURANCE ORDER RE OPTIM
12 COMPANY, INSTITUTE SUBPO
13 Defendant. (Docket No. 50)

16 Plaintiff Cheryl Cason has filed suit against Defendant Federated Life Insurance Co.
17 (“Federated”), asserting, in essence, a claim for disability insurance bad faith. As a part of
18 discovery, Federated issued a subpoena to a third party, Optimum Health Institute (“OHI”). OHI
19 objected to the subpoena, claiming various privileges. The current dispute before the Court is over
20 OHI’s assertion of those privileges.

I. FACTUAL & PROCEDURAL BACKGROUND

22 As noted above, the instant case is a disability insurance bad faith action. During discovery,
23 Federated issued three subpoenas to OHI. It appears that Federated's decision to subpoena OHI was
24 a result of Ms. Cason testifying during her deposition that she had either attended OHI for some kind
25 of treatment or therapy and/or worked there. *See, e.g.*, Docket No. 51 (Costa Decl., Ex. H) (letter).

26 In the first subpoena, Federated asked OHI to produce medical and employment records
27 related to Ms. Cason. *See id.* (first subpoena). OHI responded by letter that it would not produce
28 documents because it is not a health facility but rather a church. *See id.* (Costa Decl., Ex. B) (letter).

1 Subsequently, Federated issued a second subpoena to OHI, this time seeking only
2 employment records related to Ms. Cason. *See id.* (Costa Decl., Ex. C) (second subpoena). In
3 response, OHI voluntarily produced several documents. Documents produced included drug test
4 results for Ms. Cason, a pre-employment background information report on Ms. Cason, and a
5 missionary application form filled out by Ms. Cason, dated September 28, 2010. *See id.* (Costa
6 Decl., Ex. D) (documents produced).

7 Federated followed the second subpoena with a third. In the third subpoena, Federated asked
8 OHI to produce both a witness for deposition and documents. The documents requested were those
9 related to Ms. Cason's attendance at OHI. *See id.* (Costa Decl., Ex. E) (third subpoena). OHI
10 responded to this subpoena by letter. In the letter, it stated that it would not produce documents
11 because it is a church and not a health facility. According to OHI, the subpoena violated its
12 constitutional rights of privacy, free association, and freedom of religion. *See id.* (Costa Decl., Ex.
13 G) (letter). Thereafter, OHI prepared formal written objections to the subpoena, asserting the same.
14 *See id.* (Costa Decl., Ex. J) (objections).

15 Federated then sought judicial assistance to obtain the discovery requested. More
16 specifically, it asked the Court to issue an order to show cause, requiring OHI to demonstrate why it
17 was not in contempt for failure to comply with the subpoena. OHI filed a response, and the Court
18 subsequently held a hearing on April 13, 2011. At the hearing, the Court asked Federated to provide
19 supplemental briefing, more specifically,

20 a proposal to narrow and clarify its subpoena. Defendant shall set
21 forth with greater precision and specificity the documents it seeks
22 from OHI (e.g. course descriptions for classes taken by Plaintiff,
23 schedule of her jobs & tasks, etc.) consistent with the Court's
observation that the request must be narrowly tailored and strongly
justified in light of the privacy and constitutional interests potentially
at stake.

24 Docket No. 66 (Order at 1).

25 Federated complied with the Court's order. After reviewing Federated's supplemental
26 briefing, the Court issued an order requiring OHI to produce for *in camera* review documents related
27 to, *inter alia*, (1) the dates of Ms. Cason's attendance at OHI, (2) Ms. Cason's participation in
28 scheduled classes at OHI, and (3) documents filled out by Ms. Cason while at OHI. *See* Docket No.

1 73 (Order at 1-2). The Court specified that “OHI need not produce documents which contain[] the
2 names of guests or Missionaries unless the document contains [Ms.] Cason’s name, in which case
3 the names of other guests or Missionaries may be redacted.” *Id.* (Order at 2). The Court also held
4 that, so long as OHI’s custodian of record authenticated the documents, the custodian would not be
5 required to give deposition testimony.

6 OHI lodged documents with the Court pursuant to its order. OHI provided both documents
7 over which it did not claim a privilege as well as documents over which it did claim a privilege.
8 OHI also provided a privilege log, identifying which privileges were being asserted. The issue for
9 the Court is which documents provided for *in camera* review, if any, should be produced in response
10 to Federated’s subpoena.

11 II. DISCUSSION

12 As noted above, for some of the documents lodged with the Court, OHI did not assert any
13 privilege. Accordingly, the Court orders that these documents be produced to Federated.

14 There are eight documents over which Federated does assert a privilege. One of these
15 documents has already been produced by OHI in response to the second subpoena. *Compare Docket*
16 No. 51 (Costa Decl., Ex. D) (OHI missionary application, dated 9/28/2010), *with* OHI 37-41 (same).
17 Accordingly, any privilege has been waived.¹

18 For the seven remaining documents, they are described in OHI’s privilege log as follows: (1)
19 attendance records; (2) missionary check-in; (3) time sheet; (4) missionary application; and (5)-(7)
20 missionary requests for extension. For each of these documents, OHI asserts the following
21 privileges: (1) the religion clauses of the First Amendment of the U.S. Constitution; (2) the religion
22 clauses of the California Constitution; (3) the right to privacy under the U.S. Constitution; (4) the
23 right to privacy under the California Constitution; and (5) the right of free association. For the
24 missionary application and the missionary requests for extension (*i.e.*, documents (4)-(7)), OHI
25 asserts one additional privilege, *i.e.*, (6) the clergy-penitent privilege as codified in California

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27 ¹ Technically, the missionary application that OHI voluntarily produced was missing one
28 page as well as part of another. As a matter of fairness, Federated is entitled to a copy of the entire
application since it was substantially produced by OHI.

1 Evidence Code §§ 1030-1034. In addressing whether any of these privileges is applicable, the Court
2 assumes that OHI is a church-related institution with a substantial religious character. *See Docket*
3 No. 60 (Obj. at 5) (claiming that “OHI is a mission operated by Free Sacred Trinity Church”); *see*
4 *also Lemon v. Kurtzman*, 403 U.S. 602, 616 (1971) (stating that “[t]he substantial religious character
5 of these church-related schools gives rise to entangling church-state relationships of the kind the
6 Religion Clauses sought to avoid”).

7 A. Religion Clauses of the First Amendment

8 The First Amendment provides in relevant part that “Congress shall make no law respecting
9 an establishment of religion, or prohibiting the free exercise thereof.” U.S. Const., amend. I. This
10 provision is construed as having two religion clauses: (1) the Establishment Clause which
11 commands a separation of church and state and (2) the Free Exercise Clause which requires
12 government respect for and noninterference with a person’s religious beliefs and practices. *See*
13 *Cutter v. Wilkinson*, 544 U.S. 709, 719 (2005). In the instant case, OHI argues that the subpoena
14 violates both the Establishment and Free Exercise Clauses. For the reasons discussed below, the
15 Court disagrees.

16 1. Establishment Clause

17 As noted above, the Establishment Clause commands a separation of church and state. In its
18 papers, OHI has failed to explain how the subpoena violates the Establishment Clause. *See Docket*
19 No. 60 (Obj. at 7) (simply referring to the Establishment Clause and what it prohibits). For that
20 reason alone, the claimed privilege cannot stand. *Cf. United States v. Richey*, 632 F.3d 559, 566 (9th
21 Cir. 2011) (stating that “[t]he party asserting the attorney-client privilege has the burden of
22 establishing the relationship and privileged nature of the communication”).

23 Moreover, on the merits, OHI’s position fails. The governmental action challenged by OHI
24 is a subpoena. *See Fed. R. Civ. P. 45(a)(1)(A)(i), (3)* (providing that a subpoena is issued from a
25 court and that an attorney may issue and sign a subpoena as an officer of the court). In *Lemon v.*
26 *Kurtzman*, 403 U.S. at 602, the Supreme Court established a three-part test for determining whether
27 a governmental action violates the Establishment Clause. *See Access Fund v. USDA*, 499 F.3d 1036,
28 1042 (9th Cir. 2007) (stating that “[t]he *Lemon* test remains the benchmark to gauge whether a

1 particular government activity violates the Establishment Clause”). “Under the *Lemon* test, to be
2 constitutional (1) the challenged governmental action must have a secular purpose; (2) ‘its principal
3 or primary effect must be one that neither advances nor inhibits religion’; and (3) it ‘must not foster
4 an excessive government entanglement with religion.’” *Newdow v. Rio Linda Union Sch. Dist.*, 597
5 F.3d 1007, 1017 (9th Cir. 2010).

6 “The purpose prong of the *Lemon* test asks whether government’s actual purpose is to
7 endorse or disapprove of religion.” *Nurre v. Whitehead*, 580 F.3d 1087, 1096 (9th Cir. 2009). In
8 the instant case, OHI presumably contends the latter. However, any argument that the “‘ostensible
9 and predominant purpose’” of a subpoena is to inhibit religion, *id.*, is without merit. There can no
10 doubt that subpoenas generally have a secular purpose; they are simply tools used for discovery in
11 litigation. Moreover, the specific subpoena here clearly has a secular purpose. Federated’s
12 subpoena seeks information about Ms. Cason, not OHI directly, and only because she has initiated
13 this lawsuit against Federated, claiming disability insurance bad faith. OHI has been implicated in
14 the lawsuit only because Ms. Cason testified during her deposition that she attended OHI for
15 treatment or therapy and/or worked there.

16 As for the effect prong of the *Lemon* test, it “‘asks whether, irrespective of the government’s
17 actual purpose, the practice under review in fact conveys a message of endorsement or
18 disapproval.’” *Fund v. United States Dep’t of Agric.*, 499 F.3d 1036, 1044 (9th Cir. 2007). The
19 effect prong is analyzed “from the point of view of a reasonable observer who is ‘informed . . . [and]
20 familiar with the history of the government practice at issue.’” *Vasquez v. L.A. County*, 487 F.3d
21 1246, 1256 (9th Cir. 2007). For reasons similar to above, a reasonable, objective observer would not
22 view either subpoenas generally or the specific subpoena issued by Federated as an act of hostility,
23 either toward OHI or religion in general. *See id.*

24 Finally, under the entanglement prong of the *Lemon* test, a court asks whether the
25 involvement of the government with religion, or vice-versa, “is excessive, and whether it is a
26 continuing one calling for official and continuing surveillance leading to an impermissible degree of
27 entanglement.” *Walz v. Tax Comm’n of N.Y.*, 397 U.S. 664, 675 (1970).

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1 [T]here are two types of entanglement: administrative entanglement
2 and political entanglement. “Administrative entanglement typically
3 involves comprehensive, discriminating, and continuing state
surveillance of religion.” “[P]olitical entanglement [occurs when]
4 political divisiveness result[s] from government action which divides
citizens along political lines,” and by itself is insufficient to constitute
excessive entanglement.

5 *Nurre*, 580 F.3d at 1097. Clearly, a narrowly drawn subpoena, which is essentially a one-time
6 occurrence, does not involve continuing surveillance, and there is nothing to suggest that a subpoena
7 – including the one here – would result in political divisiveness.

8 Accordingly, the Establishment Clause affords no protection to the OHI documents at issue.

9 2. Free Exercise Clause

10 As stated above, the Free Exercise Clause requires government respect for and
11 noninterference with a person’s religious beliefs and practices. Similar to above, OHI has invoked
12 the protection of the Free Exercise Clause without providing any substantive supporting argument.
13 Accordingly, the claimed privilege should be rejected on that basis alone.

14 Moreover, OHI’s contention that the Free Exercise Clause protects the documents at issue
15 from production lacks substantive merit. Notably, one of the cases cited by OHI, *Roman Catholic*
16 *Archbishop of Los Angeles v. Superior Court*, 131 Cal. App. 4th 417 (2005), establishes the lack of
17 merit to its arguments here.

18 In *Roman Catholic*, an archdiocese and two priests (collectively, “petitioners”) challenged
19 grand jury subpoenas which sought documents related to child sexual abuse allegedly committed by
20 the priests. The petitioners argued, *inter alia*, that the subpoenas violated the Free Exercise Clause
21 of the First Amendment. The state court disagreed, noting that, under U.S. Supreme Court
22 precedent, ““the right of free exercise does not relieve an individual of the obligation to comply with
23 a “valid and neutral law of general applicability on the ground that the law proscribes (or prescribes)
24 conduct that his religion prescribes (or proscribes).””” *Id.* at 431 (quoting *Employment Div., Dep’t*
25 *of Hum. Res. Of Or. v. Smith*, 494 U.S. 872, 879 (1990)); *see also Church of the Lukumi Babalu Aye,*
26 *Inc. v. Hialeah*, 508 U.S. 520, 531-32 (1993) (stating that “a law that is neutral and of general
27 applicability need not be justified by a compelling government interest even if the law has the
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1 incidental effect of burdening a particular religious practice"). In response to the petitioners'
 2 argument that subpoenas are not neutral laws of general application, the court stated as follows:

3 This argument misconstrues the notion of generally applicable neutral
 4 laws. "A law is not neutral toward religion if its 'object . . . is to
 5 infringe upon or restrict practices because of their religious
 6 motivation. . . .' A law is not generally applicable if it 'in a selective
 7 manner impose[s] burdens only on conduct motivated by religious
 8 belief' The neutral law of general applicability at issue here is
 9 the statutory and common law basis of California's grand jury process.
 10 That this particular grand jury investigation and the subpoenas it
 11 generated are directed at a Catholic archdiocese is merely an incidental
 12 effect of the grand jury process.

13 *Roman Catholic*, 131 Cal. App. 4th at 433. The Court finds the reasoning in *Roman Catholic* sound
 14 and equally applicable here. That is, the subpoena at issue here is a result of a neutral law of general
 15 applicability, and therefore the right of free exercise does not relieve OHI of its obligation to comply
 16 with the subpoena.

17 Finally, the Court emphasizes that OHI has made no showing that producing the types of
 18 documents at issue here (e.g., attendance records, missionary check-in, time sheet) would result in
 19 interference either with OHI or its adherents' free exercise of religion. Indeed, based on the Court's
 20 *in camera* review, it is hard pressed to see how there would be any such interference.

17 B. Religion Clauses of the California Constitution

18 Like the U.S. Constitution, the California Constitution also contains two religion clauses.
 19 The state constitution provides in relevant part: "Free exercise and enjoyment of religion without
 20 discrimination or preference are guaranteed. . . .The Legislature shall make no law respecting an
 21 establishment of religion." Cal. Const., art. I, § 4.

22 1. Establishment Clause

23 The California Supreme Court has held that the state Establishment Clause is coextensive
 24 with the federal. *See East Bay Asian Local Dev. Corp. v. California*, 24 Cal. 4th 693, 718 (2000)
 25 (stating that "the California concept of a 'law respecting an establishment of religion' coincides with
 26 the intent and purpose of the First Amendment establishment clause"). Accordingly, OHI's
 27 invocation of the state Establishment Clause fails for reasons stated in Part II.A.1, *supra*.

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1 2. Free Exercise Clause

2 In contrast to above, it is not clear whether the California Free Exercise Clause is
 3 coextensive with the federal. *See Catholic Charities of Sacramento, Inc. v. Superior Court*, 32 Cal.
 4 4th 527, 562 (2004) (declining “to declare the scope and proper interpretation of the California
 5 Constitution’s free exercise clause”). However, even assuming the scrutiny most favorable to OHI,
 6 *i.e.*, strict scrutiny, *see id.* (assuming strict scrutiny analysis applicable), OHI’s contention that the
 7 subpoena violates the Free Exercise Clause fails.

8 Under a strict scrutiny standard, “a law could not be applied in a manner that substantially
 9 burdened a religious belief or practice unless the state showed that the law represented the least
 10 restrictive means of achieving a compelling interest or, in other words, was narrowly tailored.” *Id.*
 11 This standard – also known as the *Sherbert* standard – was that applied by the U.S. Supreme Court
 12 prior to *Smith*. *See id.* (citing *Sherbert v. Verner*, 374 U.S. 398 (1963)). In the instant case, the
 13 critical issue is whether the subpoena constitutes a substantial burden because only then is strict
 14 scrutiny triggered.

15 Case law indicates that a substantial burden² “must be more than an inconvenience.” *Bryant*
 16 *v. Gomez*, 46 F.3d 948, 949 (9th Cir. 1995), *abrogated on other grounds in Shakur v. Schriro*, 514
 17 F.3d 878, 884-85 (9th Cir. 2008). In general, a governmental burden is considered substantial when
 18 it has a “tendency to coerce individuals into acting contrary to their religious beliefs.” *Lyng v.*
 19 *Northwest Indian Cemetery Protective Ass’n*, 485 U.S. 439, 450-51 (1988); *see also Thomas v.*
 20 *Review Bd. of the Ind. Employment Sec. Div.*, 450 U.S. 707, 717-18 (1981) (concluding that choice
 21 between unemployment benefits or religious duties imposed a substantial burden because it exerted
 22 “substantial pressure on an adherent to modify his behavior and to violate his beliefs”).

23 OHI contends that the subpoena here is a substantial burden because

24 [r]equiring a church to disclose information about any particular
 25 member’s or adherent’s experiences or actions, would have a
 26 devastating effect on any church. Anyone considering visiting [Free
 27 Sacred Trinity Church/OHI] – or any church – would know that any

28 ² In evaluating what is a substantial burden, the Court looks to federal law because, in
Catholic Charities, the California Supreme Court applied the strict scrutiny standard as articulated
 by the U.S. Supreme Court in *Sherbert*.

1 and all their communications and activities could be made public at
2 any time a court of law might deem it marginally “relevant” to civil
litigation which did not even involve the church.
3 Docket No. 60 (Obj. at 6). The problem with OHI’s argument is that it ignores context. The
4 particular situation here arose because Ms. Cason initiated the instant action against Federated,
5 claiming disability insurance bad faith, and then testified during her deposition that she received
6 treatment or therapy at OHI and/or worked there. The uniqueness of the context here consequently
7 demonstrates that the chilling effect conjured by OHI is grossly exaggerated and unlikely to result.
8 Furthermore, the nature of the documents sought is such that their production is not so invasive and
9 unlikely to chill the exercise of religion.

10 C. Federal and State Right to Privacy

11 “To evaluate privacy objections under either federal or state law, the Court must balance the
12 party’s need for the information against the individual’s privacy right in [the information].” *Tierno*
13 v. *Rite Aid Corp.*, No. C 05-02520 TEH, 2008 U.S. Dist. LEXIS 58748, at *7 (N.D. Cal. July 31,
14 2008); *see also Verma v. American Express*, No. C 08-2702 SI, 2009 U.S. Dist. LEXIS 46702, at *3
15 (N.D. Cal. May 26, 2009) (stating that “[a] plaintiff’s right to privacy under California and federal
16 law . . . must be balanced against the right of civil litigants to discover relevant facts”). In the
17 instant case, Federated has adequately demonstrated a need for the information from OHI – e.g., to
18 compare her activity before her claim of disability and her activity after. *See generally* Docket No.
19 71 (supplemental briefing). In response, OHI contends that this is not a compelling need, as
20 required by California law. *See, e.g., Lantz v. Superior Court*, 28 Cal. App. 4th 1839, 1853-54
21 (1994) (stating that, “when the constitutional right of privacy is involved, . . . [t]he party seeking
22 discovery must demonstrate a compelling need for discovery, and that compelling need must be so
23 strong as to outweigh the privacy right when these two competing interests are carefully balanced”).
24 But OHI fails to take into account that there must be a privacy interest in the first place before the
25 compelling need requirement is triggered. Here, the Court sees little, if any, privacy interest in the
26 documents at issue. There is no private information revealed about third parties and the documents
27 shed little light on any religious teachings or doctrine of OHI. To the extent there is any privacy
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1 interest, it is because Ms. Cason's personal information is at issue, and OHI has failed to show that it
 2 has any standing to invoke Ms. Cason's privacy rights.

3 D. Associational Privacy

4 The First Amendment right of freedom of association includes the protection of privacy of
 5 association. *See Andersen v. United States*, 298 F.3d 804, 810-11 (9th Cir. 2002) (noting that “[t]he
 6 concern for the protection of the right of free association, and the ability to maintain one's privacy in
 7 that association, is especially present in political, economic, and religious organizations”). Because
 8 of the importance of this right, the Court noted in its order requiring *in camera* production of
 9 documents that “OHI need not produce documents which contain[] the names of guests or
 10 Missionaries unless the document contains [Ms.] Cason's name, in which the names of other guests
 11 or Missionaries may be redacted.” Docket No. 73 (Order at 2).

12 The documents that have been submitted by OHI for *in camera* review do not disclose any
 13 association with OHI by anyone other than Ms. Cason. To the extent OHI argues that even Ms.
 14 Cason's association with OHI is a privileged matter, *see* Docket No. 60 (Obj. at 10), the Court notes
 15 that Ms. Cason is also a holder of that privilege and she implicitly waived that privilege by testifying
 16 about her attendance at OHI during her deposition.

17 E. Clergy-Penitent Privilege

18 As OHI points out, the California Evidence Code provides for a clergy-penitent privilege.
 19 *See* Cal. Evid. Code §§ 1030-1034. In the instant case, OHI has asserted the privilege for those
 20 documents it has described as missionary application or missionary request for extension. The
 21 assertion of this privilege here, however, fails for several reasons.

22 First, OHI never asserted the privilege as part of its initial objections, *see* Docket No. 60
 23 (objections), and therefore any privilege has been waived.³

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27 ³ The Court notes that, under the California Evidence Code, both the clergy member and the
 28 penitent hold the privilege. *See* Cal. Evid. Code §§ 1033-1034. Ms. Cason, however, has not
 asserted the privilege.

1 Second, waiver aside, OHI has failed to make a *prima facie* showing that the privilege is
 2 applicable. Under the California Evidence Code only a “penitential communication” is privilege.
 3 “Penitential communication” is defined as

4 a communication made in confidence, in the presence of no third
 5 person so far as the penitent is aware, to a member of the clergy who,
 6 in the course of the discipline or practice of the clergy member’s
 7 church, denomination, or organization, is authorized or accustomed to
 hear those communications and, under the discipline or tenets of his or
 her church, denomination, or organization, has a duty to keep those
 communications secret.

8 Cal. Evid. Code § 1032. OHI has made no showing that either Ms. Cason’s application or her
 9 requests for an extension were made to a clergy member authorized or accustomed to hear such
 10 communications and with a duty to keep those communications secret.

11 Finally, even if there had been no waiver by a failure to assert the privilege in the first
 12 instance, the privilege was waived when OHI voluntarily disclosed to Federated the missionary
 13 application dated September 28, 2010. *Compare* Docket No. 51 (Costa Decl., Ex. D) (OHI
 14 missionary application, dated 9/28/2010), *with* OHI 37-41 (same). Waiver is provided for by
 15 California Evidence Code § 912(a). The statute states in relevant part:

16 Except as otherwise provided in this section, the right of any person to
 17 claim a privilege provided by Section . . . 1033 (privilege of penitent),
 18 1034 (privilege of clergymen), . . . is waived with respect to a
 communication protected by the privilege if any holder of the
 privilege, without coercion, has disclosed a significant part of the
 communication or has consented to disclosure made by anyone.

20 Cal. Evid. Code § 912(a).

21 The Court acknowledges that § 912(a) refers to “a communication”; thus, an argument could
 22 be made that the scope of the waiver should extend only to the specific communication that was
 23 disclosed. However, that restrictive approach has not been adopted by the California courts. In
 24 *Jones v. Superior Court*, 119 Cal. App. 3d 534 (1981), the state court stated:

25 We are prepared to accept that the term “communication” deserves, in
 26 this context, a liberal construction. A patient, for example, who has
 27 disclosed her conversation with a physician on Monday ought not to
 be permitted to claim the privilege with respect to a conversation with
 the same physician and relating to the same subject matter on Tuesday.
 Arguably, the same is true where the patient consults more than one

1 physician concerning the same subject matter, and discloses her
 2 communication with one of them.

3 *Id.* at 547 (but acknowledging that “it would distort the statutory language beyond its apparent
 4 meaning to say that the waiver extends to all communications with any physician at any time”). The
 5 court went on to note that

6 the scope of the waiver should be determined primarily by reference to
 7 the purpose of the privilege. . . . Where the disclosure sought is *so*
 8 *related* to the disclosure already made that the [privilege holder] could
 9 not reasonably retain a privacy interest in preventing it, then the
 purpose of the privilege no longer exists, and it may be said that the
 privilege has been waived.

10 *Id.* (emphasis added); *see also Manela v. Superior Court*, 177 Cal. App. 4th 1139, 1148 (2009)
 11 (stating the same).

12 In the instant case, OHI voluntarily disclosed the missionary application dated September 28,
 13 2010. The missionary application dated August 11, 2009, and missionary requests for extension are
 14 sufficiently related to this disclosure that OHI could not reasonably retain a privacy interest in
 15 preventing the disclosure of these documents as well. Each of the documents concerned Ms.
 16 Cason’s time at OHI as a missionary.

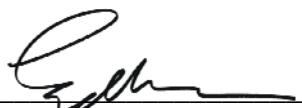
17 **III. CONCLUSION**

18 For the foregoing reasons, the Court orders each of the documents submitted for *in camera*
 19 review to be produced to Federated. OHI shall produce the documents to Federated within five
 20 Court days of the date of this order.

21 This order disposes of Docket No. 50.

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 23 IT IS SO ORDERED.

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 25 Dated: May 20, 2011



EDWARD M. CHEN
United States District Judge

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